

Testimony In Opposition To  
**RB 393**  
**AN ACT CONCERNING DOMESTIC WORKERS**  
Committee on Labor and Public Employees  
March 8, 2016

Chairman Gomes, Chairman Tercyak, Sen. Hwang, Representative Rutigliano and distinguished members of the Labor and Public Employees Committee:

My name is David Denvir. I am General Counsel for one of Connecticut's largest Homecare employers, Companions and Homemakers, Inc., and I thank you for this opportunity to address Raised Bill 393. I also speak to you as President of the Connecticut Chapter of a national trade organization, the Home Care Association of America, and as someone who served with members of your Committee for more than a year on the legislature's Taskforce on Domestic Workers.

I oppose sections 11 and 8 of the bill as they apply to Agency employers. Those sections permit a domestic worker to assert administrative and civil court claims against their employer if the employer a) enters the living quarters of the worker without permission, or b) interferes with or monitors the worker's electronic communications, or c) requires use of certain cleaning products. All of those matters occur in someone's home, not on the Agency employer's premises.

Each of those violations is independent of any action of the Agency employer. Each violation involves the interceding action of the homeowner or the family; interaction the Agency employer is powerless to control, insure against, prevent, or even know about until the violation has occurred. It is wrong to hold an Agency employer responsible for the actions of another party. And, if the Agency, not the homeowner, bears responsibility, there is no incentive for the homeowner to follow the law.

For these reasons, Agency employers should be removed from sections 11 and 8.

I oppose section 9 of the bill, a provision requiring written notice prior to termination of a domestic worker's employment; or, in the absence of notice, severance pay. This provision bears no regard to the reality of domestic service employment.

First, the provision draws no distinction between live-in and non live-in domestic service. There is no demonstrated need, reason or public purpose served by requiring notice or severance pay for a straight hourly worker whose employment ends. In this regard, the domestic worker is no different than any other employee in any other industry.

Second, third party employers cannot tell a homeowner that the homeowner must continue to provide housing or employment for a worker they no longer want in their home. The concept is contrary to individual homeowner rights, and Connecticut's longstanding status as an employment at will state. Homeowner's end domestic worker assignments with the best of intentions with no notice; sometimes, because they have simply run out of funds. Retail chains lay off after the holidays. Shoreline businesses reduce hours after Labor Day. Work assignments of all kinds end. In this regard, domestic work is no different and should not be treated differently. The Agency employer has no means to control this fact and should not be accountable for the actions of a client that elects to end services.

Third, domestic work assignments for the elderly often end unexpectedly due to the death or hospitalization of the homeowner, or upon assignment of a new caregiver due to approved Medicaid funding or family intervention. Third party employers can neither predict nor protect against events. The proposed bill makes no allowance for this fact. For these reasons, third party employers should be removed from section 9, the severance pay provision.

I oppose section 6 of the bill, which promotes a double standard in the treatment of domestic workers. This bill is advanced as legislation to protect domestic workers, yet excludes from protection, in section 6, workers in state funded Medicaid programs. This exemption is clearly designed to minimize the financial impact of these new protections on Connecticut's self-directed homecare program, essentially saying that Agency employers, already providing full wages, worker's compensation, healthcare and other benefits must provide increased protection for their workers, but individual homeowners providing none of those benefits, are excused from compliance.

That dichotomy represents the reverse of what this bill should accomplish. The Agency employer provides employment benefits that are the equal of all

industries and represents the standard all domestic worker employers should rise to meet. The outlaw homeowner, ignoring existing labor law, is the root of domestic labor abuse. Yet, this bill as written makes that homeowner the most economically viable labor model for domestic worker employment by placing the burden of domestic worker reform on the Agency employer. Legislation that makes the homeowner labor model less expensive for the consumer – by requiring fewer worker protections – strips workers of the protections they deserve and should not emerge from this committee.

The exemption in section 6 brings focus to the economic impact of the bill. If the state cannot afford to fund the protections of the bill, how can private industry? How can the individual homeowner, often on a fixed income? The Department of Social Services, on January 25, issued a bulletin announcing a roll back in certain homecare services effective April 1, 2016. On March 2 the Western Connecticut Agency on Aging did the same thing. The increased cost of homecare is already being felt in the form of Connecticut's rising minimum wage and changes in the Fair Labor Standards Act that increased domestic worker wages. The proposed bill provides for sweeping new proposals that will escalate costs further.

I oppose section 7 of the bill, which creates mandatory paid vacation; a provision similarly removed from the reality of domestic work. The bill requires paid vacation for all domestic workers, regardless of the number of hours they work. Many domestic work assignments are short – a few hours per week – or temporary. Domestic workers, full and part time, often move from family to family or assignment to assignment. How can any employer bill any homeowner for a worker's vacation time? Why should a family receiving (for example) five hours of service each week be asked to fund paid time off for any worker, domestic or otherwise? Provisions such as this in the bill go far beyond remedying domestic worker labor abuses, representing fundamental change in the interdependence between consumers, employers, and the workforce.

I oppose section 5 of the bill, which requires payment of overtime wages to any domestic worker choosing to work a seventh consecutive day. This provision contains no requirement as to hours worked. Many of our state's elderly choose domestic service for just two hours, each day, from one trusted caregiver; to cook a meal, or assist (for example) with morning or evening tasks. The worker's weekly schedule may total as few as fourteen hours per week; yet, overtime

would be triggered, overtime few domestic service clients will recognize or consent to be billed. The result is likely to be reduced worker wages, as employers adjust schedules so that no one worker, currently agreeing to work seven consecutive days, maintains that schedule. Lost in this provision is consideration for the senior citizen receiving services, who must agree to seventh day overtime wages, or receive a different caregiver at least one day per week.

Lastly, the report of the Taskforce on Domestic Workers, filed in December 2015, recommended that domestic worker Registries – entities that profit from domestic services but do not provide worker’s compensation coverage or other benefits of employment – be deemed the employer of record of domestic workers they refer to a homeowner for direct hire. This would make each Registry jointly responsible for providing worker’s compensation to the domestic workers they refer for employment. Implementation of that one requirement would greatly enhance domestic worker protection while addressing systemic workplace abuses caused by employee misclassification; yet, I do not see that proposal in the bill. That recommendation from the Taskforce should be adopted.

Respectfully submitted by

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